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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,786	11/12/2003	Terrence W. Schmidt	1934-9-3	7807
7590	09/12/2006		EXAMINER OLSON, LARS A	
Bryan A. Santarelli GRAYBEAL JACKSON HALEY LLP Suite 350 155 - 108th Avenue NE Bellevue, WA 98004-5901			ART UNIT 3617	PAPER NUMBER

DATE MAILED: 09/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/712,786

Applicant(s)

SCHMIDT ET AL.

Examiner

Lars A. Olson

Art Unit

3617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 August 2006 and 17 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 6, 8, 9, 11-16, 20 and 21 is/are rejected.
- 7) ☒ Claim(s) 4, 7, 10 and 17-19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 14, 2006 has been entered.

2. An amendment was received from the applicant on July 17, 2006.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3, 5, 6, 8, 9, 11-16, 20 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Leary (US 5,967,072).

Leary discloses the same vessel as claimed, as shown in Figures 1-12, that is comprised of a propulsion device, as described in lines 27-28 of column 3, a hull, defined as Part #12, that carries said propulsion device, has first and second portions,

as shown in Figure 11, and has multiple operating modes in which said hull is operable to be moved by said propulsion device from one location to another, said multiple operating modes including a deep draft mode, as shown in Figure 12, a shallow draft mode, as shown in Figure 11, and a very shallow draft mode, as shown in Figure 10, and a system, as shown in Figures 10-12, that is operable to select one of said operating modes, where said system is further comprised of a ballast system, as described in lines 1-9 and 31-42 of column 5, that is operable to select one of said operating modes by adjusting a level of ballast within said vessel. Said ballast system is also capable of selecting a catamaran mode, as shown in Figure 11.

Leary also discloses the same method, as claimed, as shown in Figures 1-12, said method being comprised of the steps of selecting one of multiple operating modes for a water vessel, as shown in Figures 10-12, and operating said vessel in the selected mode, where the step of selecting said operating mode is comprised of adjusting the draft of said vessel by adjusting the amount of ballast within said vessel, as shown in Figure 11.

Allowable Subject Matter

5. Claims 4, 7, 10 and 17-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

6. Applicant's arguments with respect to claims 1-3, 5, 6, 8, 9, 11-16, 20 and 21 have been considered but are moot in view of the new ground(s) of rejection.


Conclusion

7. Any inquiry concerning this communication from the examiner should be directed to Exr. Lars Olson whose telephone number is (571) 272-6685.

lo

September 6, 2006

LARS A. OLSON
PRIMARY EXAMINER


9/6/06